

PRELIMINARY DRAFT--FOR DISCUSSION PURPOSES ONLY.

THIS DRAFT IS NOT TO BE CONSIDERED A PROPOSED RULE AND IS ONLY PROVIDED FOR DISCUSSION PURPOSES TO DETERMINE WHAT TOPICS A LATER PROPOSED RULE MIGHT ADDRESS. UNDER NO CIRCUMSTANCES IS THIS DISCUSSION DRAFT TO BE USED TO DETERMINE TAX LIABILITY AND OR EXEMPTIONS.

AMENDATORY SECTION: (Amending 83-08-026, filed 3/30/83)

WAC 458-20-177 SALES OF MOTOR VEHICLES, CAMPERS, AND TRAILERS TO ((NONRESIDENTS)) NONRESIDENT CONSUMERS.

~~((The scope of this rule is limited to sales by dealers in this state of motor vehicles, campers, and trailers to nonresidents of the state for use outside the state.~~

~~For the purposes of this rule, members of the armed services (but not including civilian military employees) who are temporarily stationed in the State of Washington pursuant to military orders will be presumed to be nonresidents unless such persons were residents of this state at the time of their induction; the term "vehicle" as used herein refers to motor vehicles, campers, and trailers.~~

~~BUSINESS AND OCCUPATION TAX~~

~~In computing the tax liability of persons engaged in the business of selling vehicles no deduction is allowed by reason of sales made to nonresidents for use outside this state but who take delivery in Washington, and irrespective of the fact that such buyers may be entitled to a statutory exemption from the retail sales tax.~~

~~A deduction from gross proceeds of sales will be allowed when, as a necessary incident of the contract of sale, the seller agrees to, and does, deliver the vehicle to the buyer at a point outside the state, or delivers the same to a common carrier consigned to the purchaser outside the state.~~

~~The foregoing deduction, however, will be allowed only when the seller has secured and retains in his files satisfactory proof:~~

~~(a) That under the terms of the sales agreement the seller was required to deliver the vehicle to the buyer at a point outside this state; and~~

~~(b) That such out of state delivery was actually made by the seller or by a common carrier acting as his agent.~~

~~For forms of proof acceptable to the department of revenue see below under retail sales tax out-of-state delivery. For "interstate commerce" deductions, generally, refer to WAC 458 20 193A.~~

~~RETAIL SALES TAX~~

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~~(1) Sales to nonresidents. Under RCW 82.08.0264 the retail sales tax does not apply to sales of vehicles to nonresidents of Washington for use outside this state, even though delivery be made within this state, but only when either one of the following conditions is met:~~

~~(a) Said vehicle will be taken from the point of delivery in this state directly to a point outside this state under the authority of a trip permit issued by the department of licensing pursuant to the provisions of RCW 46.16.160; or~~

~~(b) Said vehicle will be registered and licensed immediately (at the time of delivery) under the laws of the state of the purchaser's residence, will not be used in this state more than three months, and will not be required to be registered and licensed under the laws of this state.~~

~~Thus, in determining whether or not this particular exemption from the retail sales tax is applicable the dealer must establish the facts, first, that the purchaser is a bona fide nonresident of Washington and that the vehicle is for use outside this state and, second, that the vehicle is to be driven from his premises under the authority of either (a) a trip permit, or (b) valid license plates issued to that vehicle by the state of the purchaser's residence, with such plates actually affixed to the vehicle at the time of final delivery.~~

~~As evidence of the exempt nature of the sales transaction the seller, at the time of sale, is required to take an affidavit from the buyer giving his name, the state of his residence, his address in that state, the name, year and motor or serial number of the vehicle purchased, the date of sale, his declaration that the described vehicle is being purchased for use outside this state and, finally, that the vehicle will be driven from the premises of the dealer under the authority of a trip permit (giving the number) or that the vehicle has been registered and licensed by the state of his residence and will be driven from the premises of the dealer with valid license plates (giving the number) issued by that state affixed thereto. If the vehicle being sold is already licensed with valid Washington plates and the nonresident purchaser wishes to qualify for exemption by transporting the vehicle out of state under authority of a trip permit, the dealer is required to remove the Washington plates prior to delivery of the vehicle and retain evidence of such removal to avoid liability for collection and payment of the retail sales tax. The seller must himself certify by appending a certification to the affidavit, to the fact that the vehicle left his premises under the authority of a trip permit or with valid license plates issued by~~

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~~the state of the buyer's residence affixed thereto. The buyer's affidavit and the dealer's certificate must be in the following form:~~

AFFIDAVIT

~~For use by a NONRESIDENT buyer of a vehicle transporting the same outside this state under the authority of~~

- ~~(a) ___ Trip permit~~
- ~~(b) ___ Nonresident license plates (check appropriate box)~~

~~STATE of WASHINGTON }
 } ss.
 COUNTY of! _____ }~~

~~____ (Purchaser) _____, being first duly sworn on oath, deposes and says:
 That he is a bona fide resident of the State of _____ and that
 his address is _____ (street and number or rural route) _____, _____ (city,
 town or post office) _____, _____ (state) _____; That on this date he has
 purchased from _____ (dealer) _____ the following described vehicle,
 to-wit:~~

~~Make _____ Model _____
 Year _____ (Motor Number) _____
 (Serial No.) _____~~

~~and that said vehicle is being purchased for use outside this state
 and that the same will be driven from the premises of the dealer
 under the authority of (a) a trip permit numbered _____ which
 has been issued to him authorizing the transit of said vehicle, or,
 (b) that said vehicle is being purchased for use outside this state
 and will not be used in the State of Washington for more than three
 months; and~~

~~That the affiant has licensed said vehicle in the state of _____
 and has had issued to him by that state license plates numbered
 _____ which are valid until _____ (expiration date of license)
 and that said plates have been affixed to said vehicle prior to the
 time it has left the premises of the dealer.~~

~~Dated at _____, Washington, this _____ day of _____, 19__.~~

~~_____
 (Signature)~~

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~~Service No. if Member of Armed Services~~

~~Subscribed and sworn to before me this _____ day of _____, 19__.~~

~~Notary Public in and for the State of
Washington, residing at _____~~

~~CERTIFICATE OF DEALER~~

~~I hereby certify that before final delivery of the vehicle described in the foregoing affidavit (a) I have examined trip permit No. _____ which authorizes transit of the vehicle described, or (b) that license plates numbered _____, issued to said vehicle by the state of _____ and expiring _____, were affixed thereto. I further certify that I have personally examined two or more of the following items of documentary evidence showing the purchaser's residency in the state of _____:~~

- ~~_____ Driver's license~~
- ~~_____ Voter's registration~~
- ~~_____ Fishing or hunting license~~
- ~~_____ Income tax returns~~
- ~~_____ Other (specify) _____~~

~~I further certify that if the vehicle sold was already licensed with valid Washington plates, they were physically removed by _____, agent of the seller.~~

~~(Signature of dealer
or representative)~~

~~(Title
Officer or Agent)~~

~~Failure to take this affidavit and to complete the dealer's certification, in full, at the time of delivery of the vehicle will negate any exemption from the buyer's duty to pay and the dealer's duty to collect the retail sales tax under RCW 82.08.0264. Furthermore, a copy of the completed affidavit and certification must be attached to the dealer's excise tax report submitted for the~~

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~~reporting period in which any such vehicles were sold. Such filing is a procedural requirement and does not conclusively establish the buyer's or seller's right to exemption.~~

~~The foregoing affidavit will be prima facie evidence that sales of vehicles to nonresidents have qualified for the sales tax exemption provided in RCW 82.08.0264 when there are no contrary facts which would negate the presumption that the seller relied thereon in complete good faith. The burden rests upon the seller to exercise a reasonable degree of prudence in accepting statements relative to the nonresidence of buyers. Lack of good faith on the part of the seller or lack of the exercise of the degree of care required would be indicated, for example, if the seller has knowledge that the buyer is living or is employed in Washington, if for the purpose of financing the purchase of the vehicle the buyer gives a local address, if at the time of sale arrangements are made for future servicing of the vehicle in the seller's shop and a local address is shown for the shop customer, or if the seller has ready access to any other information which discloses that the buyer may not be in fact a resident of the state which he claims. A nonresident permit issued by the department of revenue may be accepted as prima facie evidence of the out of state residence of the buyer, but does not relieve the seller from obtaining the affidavit and completing the certificate required by this rule.~~

~~Members of the armed services who are temporarily stationed in Washington pursuant to military orders will be presumed to be nonresidents unless such persons were residents of this state at the time of their induction. This presumption is not applicable in respect to civilian employees of the armed services.~~

~~In all other cases where delivery of the vehicle is made to the buyer in this state, the retail sales tax applies and must be collected at the time of sale. The mere fact that the buyer may be or claims to be a nonresident or that he intends to, and actually does, use the vehicle in some other state are not in themselves sufficient to entitle him to the benefit of this exemption. In every instance where the vehicle is licensed or titled in Washington by the purchaser the retail sales tax is applicable.~~

~~(2) Out-of-state deliveries. Out-of-state deliveries to buyers who are bona fide nonresidents are exempt from the retail sales tax when the seller, as a necessary incident to the contract of sale, delivers possession of vehicles to such buyers at points outside Washington and such vehicles are not licensed or titled in this state. If the vehicle being sold bears valid Washington plates and the nonresident wishes to qualify for exemption by taking delivery from the dealer at a point outside the state, the dealer is required~~

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~~to remove the Washington plates prior to delivery and retain evidence of such removal to avoid liability for collection and payment of the retail sales tax.~~

~~In such cases, as evidence of the exempt nature of the transaction, the seller must take from the buyer a certificate of out-of-state delivery which shall give the purchaser's name and address, the name, model, year and motor number of the vehicle purchased, and contain the buyer's statement that he is a bona fide resident of the named state, that the vehicle was purchased for use outside Washington state and that under the terms of the sales agreement the dealer was required to and did deliver the vehicle to a named point outside the state of Washington. The certificate shall be signed by the buyer at the place of delivery. Attached to this certificate and made a part thereof shall be a certification by the seller that he delivered the vehicle to the purchaser named at the named place of delivery.~~

~~These certificates shall be substantially in the following form:~~

~~CERTIFICATE OF OUT OF STATE DELIVERY~~

~~(To be obtained from the purchaser at the time delivery is made to him at a point outside Washington)~~

~~The undersigned hereby certifies that he is a bona fide resident of the State of _____ and that his address is _____ (street and number or rural route) _____, _____ (city, town or post office) _____, _____ (state) ; That on the _____ day of _____, 19____, he purchased from (Dealer) _____ the following described vehicle to-wit:~~

~~Make _____ Model _____
Year _____ (Motor Number) _____
_____ (Serial No.)~~

~~and that said vehicle was purchased for use outside Washington state; That under the terms of the sales agreement the dealer was required to, and did on this day, deliver said vehicle to him at _____ (Place of delivery) _____.~~

~~Dated at _____, _____, this _____ day of _____, 19____.~~

~~_____
(Signature)~~

~~_____~~

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~~CERTIFICATION OF DEALER~~

~~I hereby certify that I have this day delivered the vehicle hereinabove described to _____ (Name of purchaser) _____, at _____ (Place of delivery) _____.~~

~~Dated _____~~

~~(Signature of dealer or representative)~~

~~(Title Officer or Agent)~~

~~When such out of state delivery is made by a common carrier acting as agent of the seller then, as evidence of the exempt nature of the transaction, the seller shall retain in his files a signed copy of the bill of lading issued by the carrier in which the seller is shown as the consignor and by which the carrier agrees to transport the vehicle to a point outside the state.~~

~~The retail sales tax applies upon sales at retail made by local dealers to local residents for use by them in this state, even though delivery may be taken by the purchaser at the factory or other point outside this state, or that shipment may be made direct from outside this state to the purchaser in this state. However, where delivery is taken by local residents in foreign countries the vehicles will be deemed not to be for use in this state and local dealers will not be required to collect the retail sales tax.~~

~~(3) Records to be retained by seller. The affidavits and certificates referred to in this rule must be retained by the seller in his files as a part of his permanent records subject to audit by the department of revenue. In the absence of such proof, claims that transactions were exempt from tax will be disallowed.))~~

(1) Introduction. This rule applies to any sale of a motor vehicle, camper, or trailer (collectively referred to as a "vehicle" in this rule) to a consumer who is not a resident of the state, including nonresident military personnel temporarily stationed in Washington. It describes the different business and occupation (B&O)

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and retail sales tax consequences that result from vehicle sales to nonresidents, particularly the sales tax exemption provided by RCW 82.08.0264. It also explains the documentation a seller must retain to substantiate any claim of a tax-exempt sale. Questions regarding vehicle licensing or registration requirements should be directed to the department of licensing.

(2) **What are the tax consequences when a vehicle sold to a nonresident is delivered in-state?** A sale of a vehicle to a nonresident where the vehicle is delivered in-state is exempt from retail sales tax if the sale satisfies the requirements of RCW 82.08.0264. In all other cases where the vehicle is delivered to the buyer in this state, the retail sales tax applies and must be collected at the time of sale, unless otherwise exempt by law. The mere fact that the buyer may be or claims to be a nonresident or that the buyer intends to, and actually does, use the vehicle in some other state does not, by itself, entitle the buyer to the exemption. In any case where the seller licenses or registers the vehicle in Washington on the buyer's behalf, the retail sales tax applies. In computing the B&O tax liability of persons engaged in the business of selling vehicles, no deduction is allowed for a sale made to a nonresident for use outside this state if the nonresident buyer takes delivery in Washington. This is true even if the buyer is entitled to an exemption from the retail sales tax.

(a) **Exemption requirements.** If a vehicle is delivered within this state to a nonresident buyer, retail sales tax does not apply if the vehicle is purchased for use outside this state and, immediately upon delivery, the vehicle:

(i) Is removed from the state under the authority of a trip permit issued by the department of licensing pursuant to RCW 46.16.160; or

(ii) Is registered and licensed in the state of the buyer's residence, will not be used in this state more than three months, and will not be legally required to be registered and licensed in this state.

If the vehicle bears Washington state license plates and the nonresident buyer wishes to qualify for exemption, the seller must remove the Washington plates before delivering the vehicle and retain evidence of that removal to avoid liability for collection and payment of the retail sales tax.

(b) **Seller obligations.** Thus, to apply this exemption to a sale, the seller must properly document the following facts:

(i) The buyer is a nonresident of Washington;

(ii) The vehicle is for use outside this state;

(iii) The vehicle is to be driven from the seller's premises

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under the authority of either:

(A) A trip permit; or
(B) Valid license plates issued for that vehicle by the state of the buyer's residence, with the plates actually affixed to the vehicle upon final delivery; and

(iv) If the vehicle bears Washington state license plates, the seller has removed the Washington plates before delivery.

(c) **Documentation.** At the time of sale, the seller must obtain from the buyer an affidavit, commonly referred to as the "buyer's affidavit," giving:

(i) The buyer's name;
(ii) The state of residence;
(iii) The buyer's address in that state;
(iv) The name, model, year, and motor or serial number of the vehicle purchased;

(v) The date of sale; and
(vi) The buyer's declaration that the vehicle is being purchased for use outside this state and that the vehicle:

(A) Will be driven from the seller's premises under the authority of a trip permit (giving the number); or

(B) Has been registered and licensed by the state of the buyer's residence, will be driven from the seller's premises with valid license plates (giving the number) issued by that state affixed to the vehicle, and will not be used within Washington for more than three months.

In addition, the seller must certify that the vehicle left the seller's premises under the authority of a trip permit or with valid license plates issued by the state of the buyer's residence affixed to the vehicle. The buyer's affidavit and seller's certificate must be substantially in the form prescribed in subsection (4) of this rule.

(3) **What are the tax consequences when a vehicle sold to a nonresident is delivered out-of-state?** A sale of a vehicle to a nonresident where the seller delivers the vehicle out-of-state is exempt from retail sales tax if the sale meets the requirements described in this subsection. If the sale is exempt from retail sales tax, the seller may also deduct the sale amount from the gross proceeds of sales for B&O tax purposes. The deductible amount should be included in the gross income reported on the combined excise tax return (CETR) and then deducted on the return to determine the amount of taxable income. The deduction should be identified on the deduction detail page of the CETR as an "interstate and foreign sales" deduction. Deductions taken but not identified on the appropriate deduction detail page of the CETR may be disallowed.

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(a) **Requirements.** If a vehicle is delivered outside of this state to a nonresident buyer, retail sales tax does not apply if:

(i) The vehicle is purchased for use outside this state;
(ii) The seller, as required by the contract of sale, delivers possession of the vehicle to the buyer at a point outside Washington; and

(iii) The vehicle is not licensed or registered in this state. If the vehicle bears Washington state license plates and the nonresident buyer wishes to qualify for exemption, the seller must remove the Washington plates before delivery and retain evidence of that removal to avoid liability for collection and payment of the retail sales tax.

(b) **Seller obligations.** Thus, to apply this exemption to a sale, the seller must properly document the following facts:

(i) The buyer is a nonresident of Washington;
(ii) The vehicle is for use outside this state;
(iii) The vehicle is not licensed or registered in this state or the Washington state license plates have been removed from the vehicle before delivery;

(iv) Under the terms of the sales agreement, the seller is required to deliver the vehicle to the buyer at a point outside this state; and

(v) The out-of-state delivery was actually made by the seller or by a common carrier acting as the seller's agent.

(c) **Documentation when delivery is made by seller.** When delivery by the seller occurs out-of-state, the seller must obtain from the buyer a certificate, commonly referred to as the "buyer's certificate," that includes:

(i) The buyer's name
(ii) The state of residence;
(iii) The buyer's address in that state;
(ii) The name, model, year, and motor or serial number of the vehicle purchased; and

(iii) The buyer's declaration that the buyer is a resident of the named state, that the vehicle was purchased for use outside Washington state, and that under the terms of the sales agreement the seller was required to and did deliver the vehicle to a named point outside the state of Washington.

The buyer must sign the certificate at the place of delivery.

In addition, the seller must certify that the seller delivered the vehicle to the buyer at the named place of delivery. The buyer's certificate and seller's certificate must be substantially in the form prescribed in subsection (4) of this rule.

(d) **Documentation when delivery is made by common carrier.** When

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an out-of-state delivery is accomplished by common carrier acting as agent of the seller, the seller must obtain the buyer's certificate in subsection (3)(c) above. Instead of the seller's certificate required by subsection (3)(c), however, a signed copy of the bill of lading issued by the carrier must be attached to the buyer's certificate. The bill of lading must show the seller as the consignor and indicate that the carrier agrees to transport the vehicle to a point outside the state.

(4) **What forms should be used to document an exempt sale?** The following documents are necessary to substantiate the exempt nature of qualifying sales to nonresidents. The seller should not send the documents described in this subsection to the department of revenue, but should retain them as part of the seller's permanent records for five years. In the absence of this documentation, claims that a transaction was exempt from tax will be disallowed.

(a) **Buyer's affidavit.** The buyer's affidavit must be substantially in the following form.

Buyer's Affidavit

(TO BE COMPLETED BY THE BUYER WHEN THE VEHICLE IS DELIVERED TO THE BUYER IN WASHINGTON)

I, (Name of buyer) , swear that:
I am a resident of the State of .
. My address in that
state is (Street and number or
rural route) , (City, town or post
office) , (State), (Zip Code). On
(Date), I purchased from (Name of
seller) the following vehicle:

Make Model
.
Year Serial No. (VIN)
.
.

I purchased this vehicle for use outside
Washington state. The vehicle will be
removed from Washington State by the
following means:

SELECT AND COMPLETE ONE

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A. The vehicle will be driven from the seller's premises under the authority of a trip permit numbered which has been issued to me by the Washington state department of licensing.

B. The vehicle will not be used in the state of Washington for more than three months and has been licensed in the state of That state has issued to me license plates numbered Those license plates are valid until (Expiration date of license) . The plates have been affixed to the vehicle before it has left the seller's premises.

I, the undersigned buyer, understand that by completing and signing this affidavit I am swearing that I qualify for the tax-exempt purchase of the vehicle described above. In addition, I understand that false or erroneous use of this affidavit will result in liability for unpaid tax with interest and may result in additional penalties.

Dated at ,
(state) , this day of , 20.

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.
.
(Buyer's signature)

.
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Subscribed and sworn to before me this day of , 20.

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Notary Public in and for the State
of Washington,
residing at _____

(b) **Buyer's certificate.** The buyer's certificate must be substantially in the following form.

Buyer's Certificate

(TO BE COMPLETED BY THE BUYER WHEN THE VEHICLE IS DELIVERED TO THE BUYER OUTSIDE WASHINGTON.)

I, (Name of buyer) , certify that:
I am a resident of the State of .
_____ My address in that
state is (Street and number or
rural route) , (City, town or post
office) , (State), (Zip Code). On
(Date), I purchased from (Name of
seller) the following vehicle:

| | |
|----------------|------------------|
| Make | Model |
| _____ | _____ |
| Year | Serial No. (VIN) |
| _____ | _____ |
| | _____ |

I purchased this vehicle for use
outside Washington State. Under the
terms of the sales agreement the
seller was required to, and did on
this day, deliver the vehicle to me at
(Place of delivery) _____

Dated at _____ ,
(state) , this _____ day of _____
_____, 20____.

(Signature)

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.....
.....
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(c) Seller's certificate -- in-state delivery. When the vehicle is delivered to the buyer within Washington state, the seller's certificate must be substantially in the following form and be attached to the buyer's affidavit.

Seller's Certificate
In-state Delivery

I certify that before final delivery of the vehicle described in the buyer's affidavit above: (a) I have examined trip permit No. which authorizes the vehicle's transit; or (b) license plates numbered , issued for the vehicle by the state of and expiring , were affixed to the vehicle.

I further certify that I have personally examined the following item(s) of documentary evidence showing the buyer's residency in the state of : . . . :

SELECT AT LEAST ONE

- Driver's license #
- Other picture identification #
- Other (specify)
- #
-

(If the vehicle sold was previously licensed with Washington plates) I further certify that the Washington state

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license plates were removed by
. . . . , agent of the seller.

.

.
(Signature of seller
or representative)

.

.
(Title-Officer or
Agent)

(d) Seller's certificate -- out-of-state delivery. When the vehicle is delivered to the buyer outside of Washington, the seller's certificate must be substantially in the following form and be attached to the buyer's certificate.

Seller's Certificate
Out-of-state Delivery

I certify that today I delivered the
vehicle described in the buyer's
certificate above to (Name of buyer) , at
(Place of delivery) .

(If the vehicle sold was previously
licensed with Washington plates) I
further certify that the Washington state
license plates were removed by
. . . . , agent of the seller.

Dated

.

.

.
(Signature of seller
or representative)

.

.
(Title-Officer or
Agent)

(5) What are a seller's obligations to verify a buyer's statements on nonresidency? Completion of a buyer's affidavit or

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buyer's certificate documents the exempt nature of a sale for the retail sales tax exemption provided in RCW 82.08.0264 unless there are contrary facts negating the presumption that the seller relied on the buyer's affidavit or buyer's certificate in good faith. The seller, however, must exercise a reasonable degree of care in accepting statements regarding a buyer's nonresidence. If delivery occurs in-state, the seller must examine and retain a copy of at least one form of documentary evidence showing the buyer's out-of-state residence. Lack of good faith on the part of the seller or lack of the exercise of the degree of care required is indicated, for example, in the following circumstances:

(a) If the seller knows that the buyer is living or is employed in Washington;

(b) If the buyer gives a local address for the purpose of financing the purchase of the vehicle;

(c) If at the time of sale, arrangements are made for future servicing of the vehicle in the seller's shop and a local address is shown for the shop customer; or

(d) If the seller has ready access to any other information that discloses that the buyer may not be a resident of the state in which he claims residency.

(6) **Do military personnel qualify for the nonresident exemptions?** A member of the armed services who is temporarily stationed in Washington is presumed to be a nonresident unless that person was a resident of this state when inducted. This presumption does not apply to civilian employees of the armed services. Nonetheless, a sale to a nonresident member of the armed forces must meet all of the statutory requirements for a retail sales tax exemption or B&O tax deduction. If a vehicle sold to a member of the armed forces will remain in Washington for more than three months, retail sales tax is due on the sale, even if the vehicle is registered in the home state of the armed forces member.

(a) **Military temporary license.** In addition to the exemptions provided under RCW 82.08.0264, a member of the armed forces may alternatively qualify for the retail sales tax and use tax exemptions provided by RCW 46.16.480 if the member obtains a 45-day nonresident military temporary license from the department of licensing under RCW 46.16.460 and satisfies the requirements of RCW 46.16.480.

(b) **Additional documentation required.** In addition to the documentation otherwise required by this rule, for a sale to a member of the armed forces a seller must retain a copy of military orders showing that the buyer:

(i) Is temporarily stationed in Washington; or

(ii) Is permanently reassigned to a new duty station outside

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Washington and will leave within three months of the date of purchase.

(c) **Military personnel of NATO-member nations.** Pursuant to treaty, a member of the armed forces of any NATO-member nation who is stationed in Washington is considered to be a nonresident for purposes of the RCW 82.08.0264 retail sales tax exemption. The buyer must meet all otherwise applicable requirements for exemption. In addition, the seller must retain proof of the buyer's military assignment in Washington as a member of a NATO-member nation's armed forces.

(7) **Priority over RCW 82.08.0273 exemption.** RCW 82.08.0273 exempts purchases of tangible personal property from the retail sales tax when the purchaser is a resident of another state or possession or a province of Canada that does not impose a retail sales tax or use tax of three percent or more. That statute does not apply to purchases of vehicles. Because RCW 82.08.0264 more specifically applies to the sale of vehicles, it takes precedence over RCW 82.08.0273. A resident of another state or possession or a province of Canada that does not impose a retail sales tax or use tax of three percent or more may purchase a vehicle in Washington free of retail sales tax only if the person meets the requirements of RCW 82.08.0264.

(8) **Examples.** The following examples identify a number of facts and then state a conclusion. These examples should be used only as a general guide. The tax results of other situations must be determined after a review of all facts and circumstances.

(a) Buyer purchases a vehicle from Dealer. Buyer provides identification indicating that Buyer is a resident of California and also provides California license plates for the vehicle. However, Buyer also states that he intends to use the vehicle in the state of Washington for four months before returning to California. Buyer does not qualify for a sales tax exemption because Buyer will use the vehicle for more than three months in the state.

(b) Buyer is a Washington resident, employed by out-of-state Corporation X. On behalf of Corporation X, Buyer purchases and accepts in-state delivery of a vehicle from Dealer as a company car for Buyer's use out-of-state. Payment is made by corporate check. Buyer also asserts that the vehicle will not be used within Washington for more than three months. This sale qualifies for the retail sales tax exemption (but not for the B&O tax deduction) notwithstanding the Washington residency of its employee.

(c) Buyer provides proof of residency in Utah; there are no contrary facts regarding Buyer's residency. Buyer completes the buyer's affidavit, stating that the vehicle is for use out-of-state.

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Buyer obtains and uses a trip permit issued under authority of RCW 46.16.160 to remove the vehicle from Washington. The Dealer completes a seller's certificate and certifies that the Dealer removed the Washington license plates before delivering the vehicle to Buyer. This sale qualifies for the retail sales tax exemption but not the B&O tax deduction.

(d) Buyer is a resident of Alaska and purchases a vehicle from Dealer in Washington. The sales contract requires Dealer to deliver the vehicle to Buyer at Anchorage, Alaska. Before shipping the vehicle, Seller removes the vehicle's Washington state license plates and retains documentation attesting to the removal. Seller ships the vehicle to Alaska by common carrier. Seller retains a signed copy of the bill of lading, indicating the Seller as consignor and the Buyer as consignee. Upon delivery in Alaska, Buyer completes the buyer's certificate. This sale qualifies for the retail sales tax exemption and the B&O tax deduction.

(e) Buyer is a member of the armed forces and provides a copy of her orders showing that she is temporarily stationed in Washington. Before entering military service, buyer resided in another state. Buyer purchases a vehicle from Dealer and licenses it in her home state, but intends to keep the vehicle in this state for over three months. This sale does not qualify for any exemption or deduction. If the vehicle were to be removed from the state within three months, the sale would qualify for the retail sales tax exemption but not the B&O tax deduction.

(f) Buyer owns homes in Washington and Arizona, spending summers in Washington and winters in Arizona. In October, Buyer purchases a vehicle from Dealer, asserting that he will immediately drive the vehicle to Arizona and license it in that state. Buyer presents an Arizona driver's license for identification and provides a trip permit to remove the vehicle from Washington. Dealer is aware that Buyer lives in Washington for a significant portion of each year. In such a case, the sale would not qualify for the retail sales tax exemption. Under these facts, Buyer has dual residency in Washington and Arizona for tax purposes and Dealer cannot, in good faith, rely upon a buyer's affidavit from Buyer.